

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**MARTHA A. CHURCHILL,**

Plaintiff,

vs.

**No. CIV 97-1030 MV/LCS**

**KENNETH S. APFEL, Commissioner  
of Social Security Administration,**

Defendant.

**SECOND INITIAL SCHEDULING ORDER**

This cause is assigned to me for scheduling, case management, discovery, and other non-dispositive motions. The Federal Rules of Civil Procedure as amended in 1993, as well as the local rules of the Court shall apply to this lawsuit. Civility and professionalism will be required of counsel. Counsel should read "A Lawyer's Creed of Professionalism of the State Bar of New Mexico".

The parties, appearing through counsel or *pro se*, shall "meet and confer" no later than 03/13/98 to formulate a provisional discovery plan. Fed. R. Civ. P. 26(f). The time for discovery, generally 120 to 150 days, will run from the Rule 16 initial scheduling conference. The provisional discovery plan shall be filed with the Court no later than 03/27/98. The parties will cooperate in preparing an Initial Pre-trial Report (IPTR) which will follow the sample IPTR form obtainable from<sup>1</sup> the Court Clerk. The blanks for dates should not be filled in. Plaintiff, or Defendant in

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<sup>1</sup>Note the specific requirements of the assigned trial judge.

removed cases, is responsible for submitting the IPTR to my office by 03/27/98. Failure to adhere to the deadlines will result in vacating the initial scheduling conference and resetting it in Las Cruces, New Mexico, in person, where the offending party or parties will show why the deadlines could not be met and the Court will award costs, if necessary. Good cause must be shown and Court approval obtained for any modification of the IPTR schedules.

Initial disclosures under Fed. R. Civ. P. 26(a)(1) shall be made within ten days of the meet and confer session. Motions to amend pleadings and join additional parties shall be served five days prior to the Rule 16 scheduling conference.

A **TELEPHONIC** Rule 16 scheduling conference will be held, **BEFORE U.S. MAGISTRATE JUDGE LESLIE C. SMITH** at the U.S. Courthouse, 200 E. Griggs, 2nd Floor, Las Cruces, New Mexico, on **APRIL 2, 1998 at 1:30 p.m.** **Plaintiff's counsel shall be responsible for coordinating the call.** It is recommended that a reliable long distance carrier be used to ensure sound quality.

At the Rule 16 scheduling conference counsel shall be prepared to discuss discovery needs and scheduling, all claims and defenses, the use of scientific evidence and whether a **Daubert**<sup>2</sup> hearing is needed, initial disclosures, and the timing of expert disclosure and reports under Fed. R. Civ. P. 26(1) (2). We shall also discuss settlement prospects, alternative dispute resolution possibilities and consideration of consent pursuant to 28 U.S.C. § 636(c). Client attendance is not required.

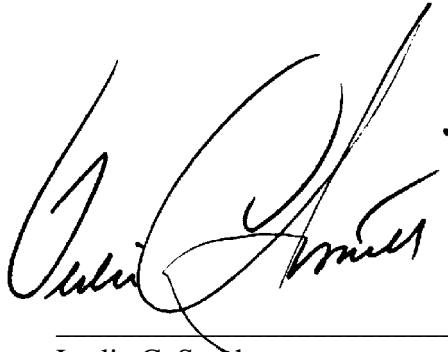
Pre-trial practice in this cause shall be in accordance with the foregoing.

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<sup>2</sup> **Daubert v. Merrell Dow Pharmaceuticals**, 113 S.Ct. 2786 (1993).

Plaintiff's counsel is responsible for notifying all parties of the contents of this order and of the hearing(s) set herein.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Leslie C. Smith', is written over a horizontal line.

Leslie C. Smith  
UNITED STATES MAGISTRATE JUDGE  
(505) 527-6914

**Notice to Federal Practitioners**

The standard Initial Pretrial Report Form has been revised under the paragraph entitled “Other Pretrial Motions,” as follows:

Motion “packages” containing the original and one copy of all papers relating to a motion (i.e., the motion, response and reply, with any accompanying memoranda or exhibits) as required by D.N.M. LR-Cv 7.3(5) must be filed with the Court no later than \_\_\_\_\_.

Any pretrial motion “package” filed after the above date shall be considered untimely in the discretion of the Court.

The revised form is available on the Internet at the Federal District Court web site or on disc and hard copy format at the Clerk’s Office.